

# **Zoning Administrator Hearing**

## *Minutes*



**John S. Gendron**  
**Hearing Officer**

**July 9, 2009 – 1:30 p.m.**

View Conference Room, 2<sup>nd</sup> Floor  
55 North Center Street  
Mesa, Arizona, 85201

### **Staff Present**

Jeff McVay  
Mia Lozano-Helland  
Lesley Davis

### **Others Present**

Wilhem H. Held  
Ted Deshong  
Mara Mitchell  
Milo LeBaron  
Derrick Fordtner  
Mikki Rakestrow  
Nunthaporn Treekamol  
Brian Brastad

### **CASES:**

Case No.: ZA09-023

Location: 433 South Hobson

Subject: Requesting a variance to allow an addition into the required side yard in the R1-7 zoning district.

Decision: Approved with the following conditions.

- 1. Compliance with the site plan submitted.*
- 2. Compliance with all requirements of the Building Safety division with regard to the issuance of building permits.*
- 3. Applicant to physically connect the addition to the existing house.*

Summary: Mr. Gendron conducted a brief discussion with the owner, Derrick Fordtner, regarding the history of the house and an existing carport. Staff planner Alam provided a staff report, the recommended conditions of approval and clarified the allowable height for the addition. Mr. Alam explained that in order to approve a gable height of 19', the addition must be physically integrated to the existing house. If Mr. Fordtner does not wish to provide attachment to the house he must move the addition to a distance of 6' from the house and reduce the height to 15'. Mr. Fordtner elected to attach the addition due to his desire for the additional roof height.

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Finding of Fact:

- 1.1 The variance will allow the property owners to build a workshop in line with the existing carport and storage area. The property is located in an area of mature single family and multi-family homes with setbacks that are less than what is required by City code.
- 1.2 The existing attached carport and storage room at the south property line were built with a setback of 6 feet, 3 inches. The current code requirement is ten feet.
- 1.3 The single story house has 2,360 sq. ft. and was built in 1958. The current owner and applicant purchased the property in 2008 in the current foot print.
- 1.4 In order to comply with the current City Code the permanent covered carport and storage structure must be removed. This variance request with its approval would allow the home owners to keep the carport and storage structure in its present form and shape.
- 1.5 The maximum height of the future workshop will be 19 feet at the top of the gable and 14 feet top of plate or wall. The submitted sketch provides a separation of 5 feet 10 inches between the existing house and the proposed structure (workshop). In order to build to the requested height the workshop must be physically attached to the existing house. An option is to consider the workshop as detached accessory structure with at least 6 feet separation with maximum height of 15 feet and the area no more than 50% of the existing.

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Case No.: ZA09-024

Location: 655 North Grand

Subject: Requesting a variance to allow an addition into the required rear yard in the R1-9 HD zoning.

Decision: Request was tabled

Summary: N/A

Finding of Fact: N/A

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Case No.: ZA09-025

Location: 17 West Main Street

Subject: Requesting a Special Use Permit (SUP) to allow outdoor seating in the TCC zoning district.

Decision: Approved with conditions.

- 1. Compliance with the site plan submitted.*
- 2. All tables and chairs shall be placed in the outdoor seating area shown on plans and no more than six tables shall be used at one time.*
- 3. All tables and chairs shall be removed during non-operating hours.*
- 4. The approved area must be kept clean and free of debris or sidewalk stains at all times.*
- 5. A clear sidewalk pathway of six feet shall be maintained at all times, for clear pedestrian access.*
- 6. The applicant shall submit a valid certificate of insurance to the Planning Division office annually.*
- 7. The Special Use Permit shall expire if the Nunthaporn's Thai Cuisine vacates the property.*

Summary: After a brief discussion Mr. Gendron approved the Special Use Permit with staff conditions.

Finding of Fact:

- 1.1 The Special Use Permit (SUP) will allow outdoor dining in front of a new Thai Cuisine restaurant located in the Town Center district.
- 1.2 The applicant will have six tables, with four chairs each, in front of the restaurant to serve customers.
- 1.3 The outdoor seating is compatible with and not detrimental to the surrounding businesses.
- 1.4 The request is consistent with similar uses in the area, many of which already serve their customers outside their store.

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Case No.: ZA09-026

Location: 4822 East Elmwood Street

Subject: Requesting a Special Use Permit (SUP) to allow detached accessory living quarters in the R1-7 zoning district.

Decision: Approved with conditions.

- 1. Compliance with the site plan submitted except as modified by the conditions below.*
- 2. The accessory living quarters may not be leased or rented.*
- 3. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Ted Deshong, a resident of the neighborhood and also representing the HOA, asked what the conditions of approval were. Mr. Gendron read the conditions from the staff report. Mr. Deshong asked that an additional condition be added that states that the primary residence cannot be rented while the owner occupies the accessory living quarters. Jeff McVay, staff planner, explained that such a situation is not allowed by the Mesa Zoning Ordinance and would be considered a violation. Mr. McVay stated that a violation of this type should be reported to the City of Mesa Code Compliance Division for investigation. Mr. Gendron approved the case with staff conditions and a copy of the minutes to be forwarded to the applicant.

Finding of Fact:

- 1.1 The accessory living quarters exists to the rear of the primary dwelling, within the buildable lot area of an R1-7 zoned parcel. The parcel is 10,012 square feet in area and consists of one single-family residence and one detached accessory structure on the property. The detached accessory building is total of 600 s.f with interior improvements that include an office, shop area, restroom with shower, and a guest quarters with a kitchenette. The applicant has utilized the detached accessory building as living quarters and was contacted by Code Compliance. The SUP will allow the building to be used as a detached accessory living quarters and comply with the City of Mesa Zoning Code.
- 1.2 The detached accessory living quarters requires a Special Use Permit because it is not directly accessible from the primary dwelling. The building is integrated with the primary dwelling in that it utilizes the same architecture, materials and finish.
- 1.3 The detached accessory building with proposed accessory living quarters has an area of 600 square-feet, which is 50% of the primary dwelling (1200 s.f.). The overall roof area for the entire site will be 18%, which is significantly less than the 40% allowed.
- 1.4 The accessory living quarters is served by the same utilities as the primary residence and the entry of the accessory living quarters is not be visible from the public right-of-way. The applicant noted in the narrative that the accessory living quarters will not be offered for lease or rent, as it is intended to be used for guest accommodations and possible residence for future care givers.

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- 1.5      Given that the structure exists within the buildable area of the lot and the applicant stated that the accessory living quarters are not intended to be leased or rented, the detached accessory living quarters is compatible with and not detrimental to the surrounding properties.

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Case No.: ZA09-027

Location: 864 North Barkley

Subject: Requesting a Special Use Permit (SUP) to allow detached accessory living quarters in the R1-9 zoning district.

Decision: Approved with conditions.

- 1. Compliance with the site plan submitted except as modified by the conditions below.*
- 2. The accessory living quarters may not be leased or rented.*
- 3. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: This case was on the consent agenda and therefore was not discussed individually.

Finding of Fact:

- 1.1 The subject accessory living quarters exists to the rear of the primary dwelling, within the buildable lot area of an R1-9 zoned parcel. The subject parcel is 36,720 square feet in area, and is located in the Arden Estates subdivision. The applicant applied for a building permit to allow construction of a 61 square foot addition to the accessory living quarters (reference BLD2009-01839). Review of that building permit application brought the need for a Special Use Permit to the applicant's attention
- 1.2 The detached accessory living quarters requires a Special Use Permit because it is not directly accessible from the primary dwelling. The building is integrated with the primary dwelling in that it utilizes the same architecture, materials, and finish.
- 1.3 The detached accessory living quarters will have an area of approximately 701 square feet, which is approximately 22% of the primary dwelling. The total for all detached structures is approximately 35% of the primary dwelling, where 50% is permitted. The overall roof area for the site, including all detached structures, will be 11.8%, where 40% is permitted.
- 1.4 The detached accessory living quarters is the only one located on the subject property and is located within the buildable area. The accessory living quarters is served by the same utilities as the primary residence and the entry of the accessory living quarters will not be visible from the public right-of-way. The applicant noted in the narrative that the accessory living quarters will be used for family members and will not be leased or rented.
- 1.5 Given the larger lot size, the additional separation provided by an adjacent alley and canal, the amount of time (40 years) the structure has been in existence, and the applicant's statement that it will not be leased or rented, the detached accessory living quarters is compatible with and not detrimental to the surrounding properties.

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Case No.: ZA09-028

Location: 309 South Windsor

Subject: Requesting a Special Use Permit (SUP) to allow detached accessory living quarters in the R1-7 zoning district.

Decision: Approved with conditions.

1. *Compliance with the site plan submitted.*
2. *Compliance with all requirements of the Building Safety division with regard to the issuance of building permits.*

Summary: This case was on the consent agenda and therefore was not discussed individually.

Finding of Fact:

- 1.1 This variance allows the property owners to replace an existing single wide manufactured home, with a new Cavco double wide unit with a carport awning.
- 1.2 As shown on the proposed site plan, the new manufactured home and additional carport will have an overall width of 43.75 feet at the widest point and would result in side setbacks of 5-feet on either side. Mesa Mobile Estates Subdivision requires side setbacks of 5-feet and 10-feet.
- 1.3 Current Code requires single-residence lots to be a minimum of 60 feet wide in the R-2 district. The subject lot is tapered with a minimum width of 48.62 feet at the front and 54.76 feet at the rear. The current lot is significantly narrower than lots required by current Code. The lot width represents a unique condition not created by the property owner and will not allow the owner to place a normal size manufactured home with a carport on the lot without encroaching into the required setback.
- 1.4 The home by itself is be able to conform to current setback requirements for the subdivision, the addition of a carport that is open on three sides necessitates encroachment into the required 10-foot side yard. Typically the 10-foot side yard provides access to the rear yard. The encroachment of the carport will not restrict access to the rear yard. Compliance with current Code will severely limit the property owner's ability to have a carport, which is standard throughout the neighborhood.
- 1.5 While not justification for the variance, staff feels it is important to mention that current standards and regulations dealing with the construction of manufactured homes exceed the construction standards of the older single wide units. The newer standards regarding electrical wiring and fire construction make this a much safer and suitable home within the subdivision. Also, the width of the single wide units of the past was 12-feet vs. the current standard, which averages around 28-feet, but varies slightly by manufacturer. The proposal of a 30' wide unit is within the standard range.
- 1.6 Another item that is not justification for a variance, but is of interest, is that there have been many similar requests and approvals for variances throughout this subdivision.



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There being no further business to come before the Zoning Administrator, the hearing adjourned at 1:50 p.m.

The cases for this hearing were digitally recorded and are available upon request.

Respectfully submitted,

John S. Gendron  
Hearing Officer

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